Supreme Court, U.S.
FILED

96 161 JUL 31 1996

OFFICE OF THE CLERK

No.

IN THE
Supreme Court of the United States
October Term, 1996

CORNELL D. CORNISH,

Petitioner,

v.

DISTRICT OF COLUMBIA
COURT OF APPEALS

and

BOARD ON PROFESSIONAL RESPONSIBILITY,

Respondents.

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SUPREME COURT, U.S.

Petition For A Writ of Certiorari
To The District of Columbia Court of Appeals

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

Cornell D.M.Judge Cornish
(Counsel Pro Se and Pro Hac
Vice For Petitioner)
Suite 301
1101 New Hampshire Ave., NW
Washington, D.C. 20037
(202) 429-9705

Date: July 31,1996

CASILLAS PRESS, INC., WASHINGTON, D.C. 20036 - (202) 223-1220

25 pp

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APPENDIX A

FILED
SEP 13 1990
Superior Court
of the District of Columbia
Washington, DC

Superior Court of the District of Columbia
Civil Division

ORDER FOR CHANGE OF NAME

IN RE: Cornell D. Cornish

C.A. No. 90-CA-08850

COMPLETE NAME OF APPLICANT: Cornell D. Cornish

Upon consideration of the application for the change of name filed herein and no objections having been made and proof of publication having been made and filed herein, and all other requirements appear having been met, it is this 13th day of September, 1990,

ORDERED BY THE COURT that the said application be and hereby is granted, and it is further,

ORDERED BY THE COURT that henceforth and hereafter Cornell D. Cornish be known as Cornell Daniel Michael Judge Cornish

/s/ illegible

JUDGE

JULY 11, 1991
illegible

APPENDIX B

IN THE COURT OF APPEALS OF MARYLAND
Misc.Docket (Subtitle BV)
No. ___
September Term, 1995

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND
100 Community Place
Suite 3301
Crownsville, Maryland 21032

Petitioner

v.

CORNELL D. CORNISH
1101 New Hampshire Avenue, N.W., Suite 301
Washington, D.C. 20037

CONSENT TO INACTIVE STATUS

Comes now the Petitioner, the Attorney Grievance Commission of Maryland, and the Respondent, Cornell D. Cornish, and jointly petition this Court to permit the Respondent to be placed on inactive status.

1. Respondent was admitted to the Maryland bar on November 9, 1956.

2. A complaint is pending against Respondent concerning the handling of a patent application and Respondent has taken steps to resolve that matter.

3. During the course of our investigation Respondent has advised that he does not actively engage in practice, occasionally take some "pro bono" work, but that he suffers lasting affects from open heart surgery in 1982 and he goes to

rehabilitation every day and, rests for some time thereafter. In addition he participates in Al Anon attending three (3) or four (4) meetings a week as well as meeting with a sponsor.

4. Respondent is 66 years of age and currently draws Social Security and a pension from his employment with the federal government.

5. Respondent admits that at the present time he is unable and has no desire to cope with the demands of the practice of law and agrees that it is in his best interest to be placed on inactive status.

WHEREFORE, Petitioner and Respondent pray:

A. That Respondent be placed on inactive status by this Court.

B. This Court that such other and futher relief as to the Court shall seem just and proper in the cause.

	illegible
Cornell D. Cornish, Esq. 1101 New Hampshire Ave., N.W., Suite 301 Washington, D.C. 20037	Melvin Hirshman Bar Counsel Attorney Grievance Commission of Maryland 100 Community Place Suite 3301 Crownsville, Maryland 21032

Date

APPENDIX C

THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON DC

MEDICAL CENTER
Department of Medicine
February 12, 1996

TO WHOM IT MAY CONCERN

The attached exercise test of Judge Cornell Cornish demonstrates a superior level of physical fitness, which places him in the top 5 percentile for his age group, attributable to longterm adherence to his maintenance exercise program.

There were no exercise-induced symptoms or ECG changes indicative of angina: and Cardiovascular prognosis is excellent.

Sincerely,
/s/ illegible
Patrick Gorman M.D.
Director, Cardiac
Rehabilitation

Exercise Stress Test Report

Date:02/06/96

Patient: Cornish, Cornell D.M. Judge
Date of Birth: 05/04/29
Diagnosis: CAD Physician: Patrick A. Gorman, M.D. #
Med Record #:0986843 Location: Account #: 71210793

Test Performed: Exercise-Bruce protocol

Conclusion
1. Above average exercise capacity.
2. Normal heart rate response to exercise.
3. Normal blood pressure response to exercise.
4. No chest pain at peak exercise.
5. Arrhythmias: None
6. ST changes: No ST changes with exercise.

A. Lopez, M.D. unconfirmed

Previous Test: None.

Medications: ASA

Pre-Exercise ECG Interpretation: Normal sinus rhythm, Incomplete right bundle branch block

Procedure:

(1) The attached Exercise Test Data Sheet shows the protocol used.

(2) Observations made at end of each minute of exercise/recovery.

WORKLOAD

Peak Exercise: 13.5 METs 5 mph 18 %grade

DURATION OF FINAL STAGE:

Exercise Time: 13 min. sec.

Reason for Termination of Exercise: Fatigue

	Resting	Peak Exercise	Max. Predicted
HEART RATE:	72	135	154
BLOOD PRESSURE:	128/90	170/80	

Exercise Induced Symptoms/Signs: No chest pain

ST Changes:

Arrhythmias: None

THE GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER
Cardiac Non-Invasive Laboratory
901 23rd St., NW, #2440N, Washington, D.C. 20037
(202) 994-3909 FAX (202) 994-illegible

APPENDIX D

COURT OF APPEALS
THE DISTRICT OF COLUMBIA

No.

In The Matter of
Cornell D. Cornish, Esquire
Respondent
A Member of the Bar of the District of Columbia

AFFIDAVIT

The undersigned, Julia Frank, M.D., declares and swears as follows:

1. I am a licensed physician in the District of Columbia and that I practice as a medical doctor in the Department of Psychiatry and Behavioral Sciences of The George Washington Medical Center, 2150 Pennsylvania Avenue, N.W., Washington, D.C. 20037 (202) 994-1733;

2. On February 14 and 27, 1996, I interviewed Cornell D.M. Judge Cornish, whose address is Suite 301, 1101 New Hampshire Ave., N.W., Washington, D.C. 20037,

3. I have reviewed the records of a stress test administered on 2/6/96 to said Cornell D.M. Judge Cornish, as well as records of blood tests administered to him in 1994 and 1995 in connection with his rehabilitation from heart disease;

4. The records reviewed by me show evidence only of a mild cardiac defect which should have no bearing on his ability to practice law;

5. I see no current symptoms of alcohol or drug abuse.

Further, deponent saith not.

/s/ Julia Frank, md

Julia Frank, M.D.
The George Washington
University Medical Center
2150 Pennsylvania Ave.
Washington, D.C. (NW)
(202) 994-1733

Date:
District of Columbia)

) ss:
City of Washington)

Sworn to and subscribed before me this 8th day of March, 1996.

Kimberly F. illegible

Notary Public
My Commission expires
March 16, 2000

APPENDIX E

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND	*	In the
	*	Court of Appeals
	*	of Maryland
Petitioner	*	Misc.Docket
v.	*	(Subtitle BV)
CORNELL D. CORNISH	*	No. 44
Respondent	*	September Term 1995

ORDER

The Court having considered the request for dissolution or amendment of inactive status of respondent and the response filed thereto by the Attorney Grievance Commission, it is this 7th day of February, 1996,

ORDERED, by the Court of Appeals of Maryland, that the request for dissolution or amendment of inactibe status be, and it is hereby, **DENIED.**

/s/ ROBERT C. MURPHY
CHIEF JUDGE

APPENDIX F

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND 100 Community Place Suite 3301 Crownsville, Maryland 21032 Petitioner	*	IN THE COURT OF APPEALS OF MARYLAND Misc. Docket (Subtitle BV) No. 39 September Term, 1995
v.	*	
CORNELL D. CORNISH 1101 New Hampshire Ave., N.W. Suite 301 Washington, D.C. 20036 Respondent	*	RECEIVED Dec 5 1995 Attorney Grievance Commission

ORDER

This matter came before the Court on a Petition filed jointly by the Attorney Grievance Commission and the respondent, Cornell D. Cornish, for the respondent to be placed on inactive status. The Court having considered the Petition, it is this 4th day of December, 1995,

ORDERED, by the Court of Appeals of Maryland, that the Petition for Inactive Status be and it is hereby GRANTED, and the respondent shall be placed on inactive status from the practice of law, and it is further

ORDERED, that the Clerk of this Court shall remove the name of Cornell D. Cornish from the register of attorneys in this Court and certify that fact to the Trustees of the Clients' Security Trust Fund and the clerks of all judicial tribunals in this State in accordance with Rule BV13.

/s/ ROBERT C. MURPHY
CHIEF JUDGE

APPENDIX G

DISTRICT OF COLUMBIA COURT OF APPEALS

FILED
May 23, 1996
COURT OF APPEALS

No. 95-BG-1830

In the Matter of
CORNELL D. CORNISH, ESQUIRE
A Member of the Bar of the
District of Columbia
Court of Appeals

BDN: 507-95

BEFORE: Ferren and King, Associate Judges; and Kern, Senior Judge.

ORDER

On consideration of respondent's request for reconsideration of this Court's order of April 15, 1996, and for other relief, and the opposition thereto, it is

ORDERED that respondent's request for reconsideration and for other relief is denied.

PER CURIAM

Copies to:

Cornell D. Cornish, Esquire
1101 New Hampshire Avenue, N.W.
Suite 301
Washington, D.C. 20037

Hamilton P. Fox, Esquire
Chair
Board on Professional Responsibility

Leonard H. Becker, Esquire
Bar Counsel
Office of Bar Counsel

emb

APPENDIX H

DISTRICT OF COLUMBIA COURT OF APPEALS BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of:	)	
	)	
CORNELL D. CORNISH	)	Bar Docket No. 507-95
	)	
Respondent	)	

ORDER

This is a reciprocal matter from the State of Maryland. On December 4, 1995, Respondent was placed on inactive status by order of the Court of Appeals of Maryland. The order placing him on inactive status was reported to the District of Columbia Court of Appeals. Respondent filed a brief in the D.C. Court of Appeals seeking relief in several areas, including the appointment of counsel. By order dated April 15, 1996, the Court of Appeals suspended Respondent, pursuant to D.C. App. R. XI, Section 11(d), and directed the Board of Professional Responsibility to recommend promptly whether reciprocal discipline should be imposed. The Court of Appeals also referred to the Board Respondent's Motion for Appointment of Counsel. The Executive Attorney, prior to the action of the Court of Appeals, had written Respondent a letter dated April 1, 1996, explaining to him the Board rules for appointment of counsel. In addition to attaching copies of the relevant rules, she explicitly informed him that he must file the appropriate motion and an affidavit of indigency and requested a copy of his most recent federal or state income tax return or other document certifying his gross income for the past 12 months.

Respondent replied by letter dated April 4, 1996 requesting that counsel be appointed so that counsel could draw up the affidavit and motion necessary for the appointment of

counsel. Enclosed was one page from his 1994 income tax return that indicated the he had self-employment income of slightly more than $1,000. There was no affidavit of indigency, and he did not enclose the complete return.

The Board is unwilling to appoint counsel for respondents who fail to file the requisite affidavit in support of indigency. This failure plus the failure to submit a complete copy of his most recent tax return gives us concern whether Respondent is in fact indigent. The affidavit is a relatively simple form, that would take no more time to execute than the letter that Respondent has already filed with the Board, and much less time to execute than the brief of 21 pages plus attachments, which Respondent filed with the Court of Appeals.

Upon consideration of the foregoing it is hereby

ORDERED that appointment of counsel for Respondent is denied, without prejudice to reconsideration should Respondent file the required affidavit and his most recent tax return.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: /s/ Hamilton P. Fox, III
Hamilton P. Fox, III
Chair

Dated: May 20, 1996

APPENDIX I

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 95-BG-1830

FILED
April 15, 1996
COURT OF APPEALS

In the Matter of
CORNELL D. CORNISH, ESQUIRE
A Member of the Bar of the
District of Columbia
Court of Appeals

BEFORE: Ferren and King, Associate Judges; and Kern, Senior Judge.

O R D E R

On consideration of respondent's motion to amend the proposed order the changing respondent's name from Cornell D. Cornish to Cornell D.M. Judge Cornish and motion to appoint attorney for respondent and third amended opposition to proposed order suspending respondent from the practice of law in the District of Columbia pending final disposition of this proceeding and answer to the proposed order to show cause and allowing respondent's name to be voluntarily removed from the register of attorneys allowed to practice in the District of Columbia and Bar Counsel's response thereto, and on further consideration of this Court's order of February 20, 1996, which held in abeyance Bar Counsel's request that the Court issue an order imposing a temporary suspension of Cornell D. Cornish, Esquire, a member of the Bar of the District of Columbia, pursuant to Rule XI, § 11(d) of the Rules Governing the Bar of the District of Columbia, it is

ORDERED that respondent's motion to amend the proposed order by changing respondent's name from Cornell D. Cornish to Cornell D.M. Judge Cornish is denied. It is

FURTHER ORDERED that respondent's motion for appointment of counsel is referred to the Board on Professional Responsibility. It is

FURTHER ORDERED that respondent's motion to voluntarily remove his name from the register of attorneys admitted to practice in the Districtof Columbia is denied. It is

FURTHER ORDERED that portion of this Court's order which held in abeyance Bar Counsel's request that the Court issue an order suspending respondent from the practice of law in the District of Columbia is hereby vacated. It is

FURTHER ORDERED that the respondent Cornell D. Cornish is hereby suspended from the practice of law in the District of Columbia pending final disposition of this proceeding, and it is

FURTHER ORDERED that Bar Counsel inform the Board on Professional Responsibility of his position regarding reciprocal discipline within 30 days of the date of this order. Thereafter, respondent shall show cause before the Board on Professional Responsibility, if cause there be, within 10 days why identical greater or lesser discipline should not be imposed in the District of Columbia, it is

FURTHER ORDERED that the Board on Professional Responsibility is directed to recommend promptly thereafter to this Court whether identical, greater or lesser discipline should be imposed as reciprocal discipline or whether the Board, elects to proceed *de novo* pursuant to Rule XI, § 11. It is

FURTHER ORDERED that respondent's attention is drawn to the requirement of D.C. App. Rule XI, § 14 relating to suspended attorneys and to the provisions of § 16 (c) dealing with the timing of eligibility for reinstatement as related to

compliance with § 14, including the filing of the required affidavit. It is

FURTHER ORDERED that the Clerk shall cause a copy of this order and the order of the Court of Appeals of Maryland to be directed to the Chair of the Board on Professional Responsibility and transmitted to the respondent. It is

FURTHER ORDERED that Bar Counsel advise the Court if the matter is concluded without the necessity of further Court action.

PER CURIAM

Copies to:

Cornell D. Cornish, Esquire
1101 New Hampshire Avenue, N.W.
Suite 301
Washington, D.C. 20037

Hamilton P. Fox, Esq.
Chair
Board on Professional Responsibility
515 5th Street, N.W.
Building A, Room 101
Washington, D.C. 20001

Leonard H. Becker, Esquire
Bar Counsel
Office of Bar Counsel
515 5th Street, N.W.
Building A, Room 127
Washington, D.C. 20001

APPENDIX J

DISTRICT OF COLUMBIA COURT OF APPEALS

FEB 20 1996

No. 95-BG-1830

In the Matter of
CORNELL D. CORNISH, ESQUIRE
A Member of the Bar of the
District of Columbia
Court of Appeals **BDN: 507-95**

BEFORE: Ferren and King, Associate Judges; and Kern, Senior Judge.

O R D E R

On consideration of Bar Counsel's petition that the Court impose a temporary suspension of respondent, a member of the Bar of the District of Columbia, pursuant to Rule XI, § 11 (d) of the Rules Governing thhe Bar of the District of Columbia, respondent's initial opposition and request for an extension of time to obtain counsel, respondent's amended opposition, request for an extenbsion of time to obtain counsel, and request for oral argument, and Bar Counsel's reply thereto, it is

ORDERED that respondent's motion for an extention of time to obtain counsel is granted and respondent shall notify this Court within 30 days from the date of this order as to the identity of counsel for respondent, along with any additional responsive pleadings pertaining to the Court's imposition of a temporary suspension of respondent, It is

FURTHER ORDERED that Bar Counsel's request that the Court issue an order suspending respondent from the practice of law in the District of Columbia shall be held in abeyance pending respondent's compliance with this order. It is

FURTHER ORDERED that respondent's request for oral argument is held in abeyance.

PER CURIAM

Copies to:

Cornell D. Cornish, Esquire
1101 New Hampshire Avenue, N.W.
Susite 301
Washington, D.C. 20037

Hamilton P. Fox, Esquire
Chair
Board on Professional Responsibility

Leonard H. Becker, Esquire
Bar Counsel
Office of Bar Counsel

emb

APPENDIX K

RULE XI,Sec. 11 September 1, 1989

DISTRICT OF COLUMBIA COURT OF APPEALS RULES OF PROFESSIONAL CONDUCT

Section 11 - RECIPROCAL DISCIPLINE.

* * *

(d) TEMPORARY SUSPENSION AND SHOW CAUSE ORDER.

Upon receipt of a certified copy of an order demonstrating that an attorney subject to the disciplinary jurisdiction of this Court has been suspended or disbarred by a disciplining court outside the District of Columbia or by another court in the District of Columbia, the Court shall forthwith enter an order suspending the attorney from the practice of law in the District of Columbia pending final disposition of any reciprocal disciplinary proceeding, and directing the attorney to show cause within thirty days from the date of the order why the identical discipline should not be imposed. The attorney's response to the order to show cause shall be filed with the Board, which for good cause shown may extend the time for filing a response for a period not to exceed thirty days.

* * *

Section 13- INCOMPETENT AND INCAPACITATED ATTORNEYS.

* * *

(d) BURDEN OF PROOF.

In a proceeding under this section seeking an order of suspension, the burden of proof shall be upon the Board. In a proceeding under this section seeking an order terminating a suspension, the burden of proof shall be upon the suspended attorney.

(e) CLAIM OF DISABILITY BY ATTORNEY.

If, in the course of a disciplinary proceeding, the attorney claims to be suffering from a disability because of mental or physical illness or infirmity, or because of addiction to drugs or intoxicants, which makes it impossible for the attorney to present an adequate defense, the Court shall enter an order immediately suspending the attorney from the practice of law until a determination is made of the attorney's capacity to practice law in a proceeding under subsection (c) of this section.

* * *

APPENDIX L

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of	)	
	)	
CORNELL D. CORNISH,	)	Docket No. 507-95
	)	
Respondent,	)	

REPORT AND RECOMMENDATION OF THE
BOARD ON PROFESSIONAL RESPONSIBILITY

Respondent, a member of the District of Columbia and State of Maryland Bars, was placed on inactive status by consent in Maryland by Order of the Court of Appeals of Maryland dated December 5, 1995. The Maryland Order was based on a Consent to Inactive Status filed by Maryland Bar Counsel and Respondent. On April 15, 1996, the District of Columbia Court of Appeals entered an Order suspending Respondent from practice in this jurisdiction and ordering the Board on Professional Responsibility to recommend to the Court whether reciprocal discipline should be imposed, or whether the Board elects to proceed *de novo* pursuant to Rule XI, section 11.[1] For the reasons stated below, the Board recommends that the Court impose reciprocal discipline of indefinite suspension with reinstatement conditioned upon a showing of fitness, pursuant to D.C. Bar Rule XI, section 13(e).

The Consent to Inactive Status relates that Respondent was the subject of a Maryland complaint concerning Respondent's handling of a patent application, and that Respondent had taken

[1] The Court's April 15, 1996 Order also referred to the Board Respondent's motion for appointment of counsel. On May 20, 1996, the motion was denied without prejudice to reconsideration should Respondent file the affidavit and tax return required by the Board to support appointment of counsel at the Board's expense. Respondent has made no further filings.

steps to resolve that matter. Respondent advised Maryland Bar Counsel during the couse of the investigation that he does not actively engage in practice, but occasionally engages in some *pro bono* work. Respondent is retired from employment with the federal government. The Consent to Inactive Status states that Respondent "suffers from lasting [e]ffects from open heart surgery in 1982 and . . . goes to rehabilitation every day and rests for some time thereafter. In addition he participates in Al Anon attending three (3) or four (4) meetings a week as well as meeting with a sponsor." In the Consent to Inactive Status, "Respondent admits that at the present time he is unable and has no desire to cope with the demands of the practice of law and agrees that it is in his best interest to be placed on inactive status." Respondent and Maryland Bar Counsel agreed that Respondent should be placed on inactive status. The Court of Appeals of Maryland so ordered, with no time limit for reapplication to practice. Under the Maryland Bar Rules, Respondent has the burden of reapplying and showing his fitness by clear and convincing evidence. Maryland Rules of Procedure, Chapter 1100, BV14.d.4.

The Court has treated other cases in which respondents took inactive status in Maryland due to disability while a disciplinary matter was pending as warranting reciprocal discipline. *In re Clancy,* No.94-BG-1549, *et al.* (D.C. May 9, 1996); *In re O'Brien,* 665 A.2d 662 (D.C. 1995); *In re Samuels,* 648 A.2d 943 (D.C. 1994). In those cases,the functionally identical discipline — indefinite voluntary suspension with reinstatement conditioned upon a showing of fitness — has been imposed pursuant to D.C. Bar Rule XI, section 13(e) (suspension upon a claim of disability by attorney). Bar Counsel recommends the same result in this matter, and Respondent has not made any filing before the Board to demonstrate that any exception to the imposition of reciprocal discipline should apply. D.C. Bar Rule XI, section 11(c).

The Board accordingly recommends that reciprocal discipline of an indefinite suspension be imposed in the District of Columbia, with reinstatement to be governed by the terms of D.C. Bar Rule XI, section 13(g) (attorney eligible for reinstatement after one year upon a showing, by clear and convincing evidence, that the disability has ended and the attorney is fit to practice law). The Board recommends that the one-year period run from the date Respondent files an affidavit pursuant to Rule XI, section 14(g).

BOARD ON PROFESSIONAL RESPONSIBLITY

By: /s/ Patricia A. Brannan
Patricia A. Brannan

Dated: July 12, 1996

All members of the Board concur in this Report and Recommendation.